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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/259,770	03/01/1999	STEPHEN J. HODGDON	3635-4000	5669

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EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/259,770

Applicant(s)

HODGDON ET AL.

Examiner

JAGDISH N PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 90-121 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 90-121 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

1. This communication is in response to amendment filed 8/22/02.

Response to Amendment

2. Specification has been amended per request. Claims 1-89 have been canceled and new claims 90-121 have been added per request.

Response to Arguments

3. Applicant's arguments regarding patentability of new claims have been considered. However, they are moot in view of new grounds of rejection presented below.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 90-111 and 116-117 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

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failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 90 recites step "determining, for each of the projected portfolio values, a projected withdrawal amount that corresponds to the desired withdrawal amount". This step renders the claim indefinite because, the claim fails to positively recite the relationship of the "fixed percentage amount" to any other predefined amount (such as percentage of a designated projected amount or some other amount, note that the determining step requires that the desired withdrawal amount be expressed in same units as the projected portfolio values). The analysis of claims assumed a desired is a dollar amount.

7. Claims 91-111 are dependent or equivalent claims and inherit similar deficiency.

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 90-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friend et al. (US Pat. 6,219,650) and further in view of Bernstein, Asset Class, November 1998.

10. Claim 90. Friend teaches a method of determining optimum asset allocation (summary of the invention, col. 2) comprising:

Obtaining data ..rates of returns for plurality of asset classes and ..inflation (col. 3, L 37-44 refer to "historical market results for stocks, bonds, and cash equivalents," and "historical Consumer Price Index");

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Generating a probabilistic distribution of investment outcomes for the financial portfolio on an incremental basis within a designated time period..plurality of projected portfolio values(col. 3, L 37-48 asset cash flow projections are determined using the CPIs and the historical market results for various asset classes);

Friend fails to teach projected withdrawal amounts for each of the projected values that correspond to a predefined "desired withdrawal amount".

In the same field of endeavor, however, Bernstein teaches a method of asset management which comprises, projected withdrawal rates that corresponds to desired withdrawal rates both in terms of withdrawal amount and withdrawal percentage (The Retirement Calculator from Hell, withdrawal rate expressed as annual withdrawal(dollar amount) in Fig. 1-2 and fixed percentage in Figures 3 and 4).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of generating a probabilistic distribution of investment outcomes for the portfolio as recited in the instant claim and as disclosed by Friend as explained above to the method of determining a projected withdrawal amount corresponding to the desired withdrawal amounts (see Figs. 1-4) as disclosed by the "Asset Class" reference. The motivation of such combination would be to provide a reliable tool for projection of withdrawal of a portfolio of assets which meets long terms needs of an individual as discussed in the "asset class" reference.

Claim 91: distribution of investment outcomes is generated on an annual basis within 30 year period ((Friend recites designated period as 20 years per Fig. 5-7 for various mixing of asset allocation, however Friend does not limit the designated period)).

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Claim 92: displaying.. an illustration of investment outcomes for the portfolio (Friend, investment outcomes are illustrated in Figures 2-7).

Claim 93: selecting an appropriate investment strategy by iteratively varying a variable selected from the group consisting of ..composition of financial portfolio (col. 4 L L38- end, refer to results obtained by changing asset allocation).

Claim 94-95: Friend fails to disclose the illustration as recited. However, it would have been obvious to one of ordinary skill in art to present the illustration of the portfolio chart having an x-axis that ranges from a worst case scenario to a best case scenario, and y-axis that ranges, on the incremental basis, from the beginning to the end of the designated period as recited because the illustration would convey the results of the portfolio analysis for different inputs to the individual such as an investor in a manner that is easily understood thereby arriving at

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the optimum allocation of the assets consistent with the individual's personal financial objectives.

This analysis also applied to limitation of claim 95.

Claim 96: asset classes art selected from the group consisting of: U.S. large Cap Stocks.. (Friend col. 4 L 56- col. 5 L 10).

Claims 97-103 and 104-110 recite computer readable medium and an apparatus respectively that correspond to method claims 90-96 and are similarly analyzed.

Claim 111 recites a computer program that corresponds to method claim 90 and is similarly analyzed.

Claim 112: Friend discloses a method comprising:

obtaining historical data for a plurality of historical periods, the data comprising historical rates of return for a plurality of asset classes and historical rates of inflation (col. 3 L 37-48,

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historical CPI's and historical market results for stocks, bonds and cash equivalents..);

obtaining for a particular individual a financial portfolio...(col. 3 L 1-15, plan member asset information..percentage of available assets to be allocated to specific asset classes);

Generating a probabilistic distribution of investment outcomes for the financial portfolio on an incremental basis within a designated time period..plurality of projected portfolio values(col. 3, L 37-48 asset cash flow projections are determined using the CPIs and the historical market results for various asset classes);

Friend fails to teach projected withdrawal amounts for each of the projected values that correspond to a predefined "desired withdrawal amount".

In the same field of endeavor, however, Bernstein teaches a method of asset management which comprises, projected withdrawal rates that corresponds to desired

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withdrawal rates both in terms of withdrawal amount and withdrawal percentage (The Retirement Calculator from Hell, withdrawal rate expressed as annual withdrawal(dollar amount) in Fig. 1-2 and fixed percentage in Figures 3 and 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of generating a probabilistic distribution of investment outcomes for the portfolio as recited in the instant claim and as disclosed by Friend as explained above to the method of determining a projected withdrawal amount corresponding to the desired withdrawal amounts (see Figs. 1-4) as disclosed by the "Asset Class" reference. The motivation of such combination would be to provide a reliable tool for projection of withdrawal of a portfolio of assets which meets long terms needs of an individual as discussed in the "asset class" reference.

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Claim 113. the historical data for a plurality of historical periods comprises annual historical rates of return and annual historical rates for each year from 1950 to present (Friend col. 4 L 21-37, both actual rate of return and actual rate of inflation are historical data).

Claim 114: refer to analysis of claims 92 and 94.

Claim 115: refer to analysis of claims 92 and 93.

Claim 116: Friend fails to disclose that the desired withdrawal amount comprises: a fixed dollar and fixed percentage amounts as recited. However, the Asset Class article discloses withdrawal amounts in terms fixed dollar amounts (Figures 1 and 2) and fixed percentage amounts (Figures 3 and 4). Although, not explicitly disclosed by the Asset Class article that the fixed percentage withdrawal amount varies according to a value of each of the investment outcomes, one skilled in the art of asset management for retirement would appreciate an optimum withdrawal could be

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realized by combination of the fixed dollar and the fixed percentage as disclosed by the Asset Class reference.

Claim 117: refer to analysis of 94 and 95.

Claim 118: refer to claim 91 analyses.

Claim 119: asset classes are selected from the group consisting of: U.S. large Cap Stocks.. (Friend col. 4 L 56- col. 5 L 10).

Claim 120: refer to analysis of claim 112 and 116.

Claim 121: refer to analysis of claim 112 and 116 with following additional comments regarding limitation "desired withdrawal amount adjusted for the historical rate of inflation (Asset Class and Friend references both use historical rate of inflation to determine the projected amounts, refer to p. 1 last para. of Asset Class, and Friend Col. 3 L 37-48, historical CPI .. are sampled to generate the asset cash flow projections).

Note also that in analysis of all claims, in view of Friend disclosure of "asset cash flow projections"

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and Asset Class terms "Annual Real (1995) Withdrawal" and "% annual withdrawal Rate" the limitations "withdrawal rates" and "projected portfolio values" are rendered equivalent as explained in claim analysis.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed,

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and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7th Floor, Alexandria VA 22202.

JNP 12/01/02


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